

**A** **Perunding Alam Bina Sdn Bhd v**  
**Errol Oh & Ors**

HIGH COURT (KUALA LUMPUR) — SUIT NO S5-23-05 OF 1996  
JAMES FOONG J  
15 AUGUST 1998

**B** *Tort — Defamation — Imputation of unprofessionalism and negligence of architects — Objective test of reasonable man with ordinary intelligence and of general knowledge and experience in worldly affairs applied — Whether defence of justification can succeed — Whether dishonestly and malice proved — Whether public has legitimate right to comment — Whether comments were fair*

**C** The plaintiffs were the architects for plans to build a hospital. The plaintiffs claimed that they were defamed in two articles written and published by the defendants in the newspaper. The plaintiff averred that they were the persons referred to in the articles and, by their natural and ordinary meaning and/or by way of innuendo, it imputed that the plaintiffs were lackadaisical in their supervisory functions as consultant architects, had failed to give out proper instructions, were unethical, unprofessional, negligent, incompetent and were in breach of the architect's professional code of conduct. As a result of the statements in the articles, the plaintiffs alleged that their credit and reputation were gravely injured and lowered in the estimation of right thinking members of society generally and had also suffered damages. The defendants admitted writing and publishing the articles but raised the defence of justification and fair comment. The issue before the court was whether the words complained of in the articles impute the plaintiffs of some quality which would be detrimental or adverse of such quality which was essential to successfully carry on their profession as architects.

**F** **Held**, dismissing the claim:

**G** (1) To decide on the issue of imputation, the objective test of the reasonable man with ordinary intelligence and of general knowledge and experience in worldly affairs would likely to understand the alleged defamatory words without being fettered with strict legal rules of construction but may include any implications or inferences must be used. In the present case, the first article focused on the unprofessionalism of the architects, ethics and breach of it, safety measures and negligence. These were obviously elements associated with unprofessional conduct. By the natural and ordinary meaning of the words used, an ordinary reasonable person reading the statements would have the impression that the plaintiffs were unprofessional and unethical in their conduct. These statements were therefore defamatory (see pp 106H-107H).

**H** (2) With regard to the second article, except for the paragraph which directly refers to the plaintiffs, the entire alleged defamatory

statements relates to the developer. It did not impute the plaintiffs at all. Reading the article as a whole, the court did not believe that an ordinary reasonable man could impute the alleged defamatory statement to the plaintiffs (see p 111A–D).

- (3) Though the defence pleaded justification, and even with particulars to certain facts being true, there was no disclosure as to what these facts alleged to be true impute. This particular imputation on the facts alleged to be true was nowhere stated in the statement of defence. Going by the rules of pleadings, where a party's case must be confined to the four walls of its pleadings, the court found that the defendants' alleged meaning imputed from the facts disclosed as true could not be accepted. There was no justification asserted that it imputed that the plaintiffs were unprofessional and incompetent in their work. For this, the plea of justification must fail (see p 108B–G).
- (4) The articles principally were comments or opinions made by the defendant. Further, the exposure of non-compliance of building plans was certainly a matter of public interest. So was the role of the architects. Not only an honourable and respected profession serving the community was involved, but also the safety factor of structures constructed or to be constructed in this country. On this, the defendant, as a matter of the public had a legitimate right to comment and in the light of the situation, his comments on the conduct and ethics of the plaintiffs were fair. There was no dishonesty and malice on the part of the defendants nor were these ever proved (see p 110C–E).

#### [Bahasa Malaysia summary]

Plaintif-plaintif merupakan arkitek-arkitek untuk rancangan-rancangan untuk membina sebuah hospital. Plaintif-plaintif mendakwa bahawa mereka telah difitnah dalam dua artikel yang ditulis dan diterbitkan oleh defendan-defendan di dalam suratkhabar. Plaintif-plaintif menegaskan bahawa mereka adalah orang-orang yang dirujukkan di dalam artikel-artikel tersebut dan dengan makna semulajadi dan biasa dan/atau melalui sindiran adalah dikaitkan bahawa plaintiff-plaintif adalah acuh tak acuh di dalam fungsi-fungsi penyeliaan mereka sebagai arkitek-arkitek perunding, telah gagal untuk memberikan arahan-arahan yang sepatutnya, adalah tidak beretika, tidak profesional, cuai, tidak kompeten dan telah mungkir kod kelakuan profesional arkitek. Akibat daripada kenyataan-kenyataan di dalam artikel-artikel tersebut, plaintiff-plaintif mendakwa bahawa kredit dan reputasi mereka telah dirosakkan dan dijatuhkan secara seriusnya di dalam pandangan ahli-ahli masyarakat yang berfikiran waras secara amnya dan telah mengalami ganti rugi. Defendan-defendan mengaku menulis dan menerbitkan artikel-artikel tersebut tetapi membangkitkan pembelaan justifikasi dan komen yang adil. Isu di hadapan mahkamah adalah sama ada perkataan-perkataan

**A** yang diadu tersebut di dalam artikel-artikel tersebut membawa kaitan bahawa plaintiff-plaintif mempunyai kualiti tertentu yang menjejaskan atau bertentangan dengan suatu kualiti tertentu yang diperlukan untuk melaksanakan dengan jayanya profesion mereka sebagai arkitek-arkitek.

**B** **Diputuskan**, menolak tuntutan mereka:

- (1) Dalam menentukan isu pengaitan, ujian objektif orang yang munasabah dengan kebijaksanaan biasa dan berpengetahuan biasa dan berpengalaman di dalam hal-ehwal dunia dan berkecenderungan memahami perkataan-perkataan fitnah yang didakwa tersebut tanpa dihalang oleh peraturan-peraturan undang-undang penafsiran yang ketat tetapi boleh memasukkan sebarang implikasi atau inferens, mestilah terpakai. Di dalam kes ini, artikel pertama tersebut memfokus kepada ketidak-profesionalan arkitek-arkitek tersebut, etika-etika dan kemungkinannya, langkah-langkah keselamatan dan kecuaihan. Ini jelas merupakan elemen-elemen yang dikaitkan dengan kelakuan tidak profesional. Dengan makna semulajadi dan biasa perkataan-perkataan yang dipakai tersebut, seorang yang munasabah yang membaca kenyataan-kenyataan tersebut akan mempunyai tanggapan bahawa plaintiff-plaintif tidak profesional dan tidak beretika dalam kelakuan mereka. Maka, kenyataan- kenyataan tersebut adalah memfitnah (lihat ms 106H–107H).
- (2) Berkenaan dengan artikel kedua tersebut, kecuali untuk perenggan yang secara terusnya merujuk kepada plaintiff-plaintif, keseluruhan kenyataan-kenyataan yang didakwa memfitnah tersebut adalah merujuk kepada pemaju. Ia tidak mengaitkan plaintiff-plaintif langsung. Membaca artikel tersebut secara keseluruhannya, mahkamah tidak mempercayai bahawa seorang yang munasabah akan mengaitkan kenyataan yang dikatakan memfitnah tersebut dengan plaintiff-plaintif (lihat ms 111A–D).
- (3) Walaupun pembelaan tersebut memplidkan justifikasi, dan malahan jika butir-butir kepada fakta-fakta tertentu itu adalah benar, tetapi tiada terdapat pendedahan berkenaan apa yang fakta-fakta yang didakwa benar ini mengaitkan. Pengaitan tertentu ini atas fakta-fakta yang didakwa benar adalah tidak dicatatkan di mana-mana pernyataan pembelaan tersebut. Berasaskan peraturan-peraturan pliding, di mana kes suatu pihak mesti dihadkan pada batasan pliding-plidingnya, mahkamah mendapati bahawa makna yang dikatakan dikait dari fakta-fakta tersebut oleh defendan-defendan tidak boleh diterima. Tidak terdapat sebarang penegasan bahawa justifikasi tersebut mengaitkan plaintiff-plaintif sebagai tidak profesional dan tidak kompeten di dalam kerja mereka. Untuk ini, alasan justifikasi mesti gagal (lihat ms 108B–G).
- (4) Artikel-artikel tersebut secara utamanya adalah komen-komen atau pendapat-pendapat yang dibuat oleh defendan-defendan.

Tambahan lagi, pendedahan ketiadaan pematuhan pelan-pelan bangunan sudah tentu adalah suatu perkara kepentingan awam. Begitu juga dengan peranan arkitek-arkitek tersebut. Bukan sahaja suatu profesion yang mulia dan dihormati yang berkhidmat kepada masyarakat adalah terlibat, tetapi juga faktor keselamatan struktur-struktur yang telah dibina atau akan dibina di negara ini. Berdasarkan ini, defendan, sebagai orang awam, mempunyai hak sah untuk memberi komen dan, di dalam keadaan situasi tersebut, komen-komen beliau ke atas kelakuan dan etika-etika plaintif-plaintif adalah adil. Tiada ketidakjujuran dan niat jahat di pihak defendan-defendan dan ia juga tidak pernah dibuktikan (lihat ms 110C-E).]

### Notes

For cases on defamation generally, see 12 *Mallal's Digest* (4th Ed, 1996 Reissue) paras 138–261.

### Cases referred to

*Lucas Box v News Group Newspapers Ltd; Lucas-Box v Associated Newspapers Group Plc & Ors* [1986] 1 All ER 177 (refd)

*N Navaratnam & Rueben Mathiavarmanam (Zaheeda Ariff with them) (Azman Davidson & Co)* for the plaintiff.

*Robert Lazar (Felix Raj with him)(Shearn Delamore & Co)* for the defendants.

**James Foong J:** The plaintiffs claim that they are defamed in two articles written and published in the *Malay Mail* and the *New Straits Times* respectively. The first ('the first article') is written by the first defendant and published by the fifth defendants on 4 December 1995. The second ('the second article') is written by the third defendant and published by the fifth defendants on 22 December 1995. The second and fourth defendants are the editors of the fifth defendants' daily: *The Malay Mail* and the *New Straits Times* respectively.

The articles and the relevant paragraphs therefrom claimed to be defamatory are as follows:

The first article (in the *Malay Mail* on 4 December 1995)

- (i) 'Act Indirectly Proposal—Way to Handle Unprofessional Architects and Engineers, says MP'.
- (ii) 'He however pointed out that developers and contractors were not the only culprits as consultant engineers and architects were ethically bound to ensure that projects were built according to plans'.
- (iii) 'There have been too many accidents and problems due to poor safety measures and builders cutting corners, he said'.
- (iv) 'The local authorities should take the initiative to complain to bodies like the boards of engineers and architects if they believed that the consultants had been negligent'.

- A** (v) 'The boards of engineers and architects could penalise consultants including deregistering them for breach of ethics, he added'.
- (vi) 'In July, Lim complained to both bodies against the architects and engineers of a private hospital project in Damansara Kim where the Council had slapped a stop-work order on the car-park buildings as an extra floor was illegally built'.
- B** (vii) 'It was reported last August that the Gombak District Council was proposing to adopt a policy of refusal to deal with architects and engineers who were unprofessional in handling projects to ensure that the district was disaster free'.
- The second article (in the *New Straits Times* on 22 December 1995)
- C** Heading
- (i) 'Hospital Developer Yet to Demolish Illegal Floor'
- Caption below photograph
- D** (ii) 'Shabby safety measures ... note the netting and scaffolding which are dangling precariously'.
- (iii) 'He said the developer's scaffolding had not been secured around the main building of the hospital'.
- (iv) 'Residents fear for their safety. Once a huge plank fell from the building onto the road. Fortunately, no one was around at that time'.
- E** (v) 'It was reported recently that the Board of Architects will be deciding next month whether to charge the consultant architect of the project, Perunding Alam Bina Sdn Bhd, for allegedly breaching their professional code of conduct'.

By the above statements, the plaintiffs aver that they are the persons referred to, and by their natural and ordinary meaning and/or by way of innuendo it imputes that the plaintiffs were 'lackadaisical in their supervisory functions as consultant architects, have failed to give out proper instructions, are unethical, unprofessional, negligent, incompetent, are in breach of the architect's professional code of conduct and are privy to the construction of an illegal car-park building at the Damansara Kim Specialist Hospital'.

As a result of these statements, the plaintiffs insist that, as consultant architects, their credit and reputation are gravely injured and lowered in the estimation of right thinking members of society generally, and have also suffered damages.

The defendants though admit writing and publishing the two articles respectively set forth the following defences:

- H** (1) the statements, its natural and ordinary meaning, or by way of innuendo were not defamatory in the nature of claim by the plaintiffs.
- (2) justification.
- (3) fair comment.

**I** *Background*

In 1983, plans to build a hospital in an area known as Damansara Kim was approved. The plaintiffs were the architects. There were 157 car parking bays

allowed to be located on two floors in a building adjacent to the hospital. This entire hospital and adjacent car-park building project was however shelved. But in 1995 it was revived by new proprietor who wished to increase the car-park bays. This would involve construction of additional floors to the car-park building. By this time new guidelines were issued by the local authorities, Majlis Perbandaran Petaling Jaya ('MPPJ') permitting such increase but building plans previously approved need to be amended and reapproved by the said local authorities. When this requirement was disclosed to the proprietor by the plaintiffs, the proprietor enquired into the consequences of building first before the approval. According to the plaintiffs, they advised their client that there will either be fined or an order for demolition. They cited the case of Jaya Supermarket in Petaling Jaya which was slapped with a fine for erecting extra office floors before amended building plans were approved. The proprietor took a decision and went ahead with the construction of additional floors of the car-park building without prior approval. While such construction was in progress, application was made by the plaintiffs to amend the original approved plan for such increase.

The attention of the press was drawn to this issue by the residents of the area who protested to the construction of this hospital in their vicinity. When it was discovered that the proprietor was constructing additional car-park floors without prior approval, opposition intensified, with the media giving fairly extensive coverage. The member of Parliament for this constituency, DW4, also joined in, and took issue.

Eventually, stop work and demolition orders were issued by MPPJ to the plaintiffs on the construction of the car-park, but by this time, an additional floor was added. Instead of demolishing this floor, an agreement was eventually reached with MPPJ where this newly constructed floor is permitted to remain, but to act only as a roof.

The hospital has been completed and is in operation. The car-park building remains with only two floors and a roof.

It was during the height of the dispute over the construction of additional floors to the car-park building that these two articles were published.

### *Analysis*

Though the two newspapers are owned by the same publisher, I intend to deal with the two alleged defamatory articles separately. The reason is that it involves different writers, editors and newspapers.

### *Is the first article defamatory?*

Here the court must determine whether the words complained of in this article impute the plaintiffs of some quality which would be detrimental, or adverse of such quality which is essential, to successfully carry on their profession as architects.

To decide on the issue of imputation, the objective test of the reasonable man with ordinary intelligence, and of general knowledge and

- A** experience in worldly affairs would likely to understand the alleged defamatory words without being fettered with strict legal rules of construction, but may include any implications or inferences, must be used.

To start of with, there is a heading which reads:

- B** 'Act Indirectly' Proposal-Way to Handle Unprofessional Architects and Engineers, says MP.

- The article then began with some quarters questioning the legality of any move by local authorities to blacklist these professionals for handling projects unprofessionally; instead the next best thing is to act against them directly since they are bound by their code of ethics. DW4 then commented on this, and referred to instances where these consultants must be held accountable in cases where construction deviated from approved plans. He proceeded to point out that 'developers and contractors were not the only culprits as consultant engineers and architects were ethically bound to ensure that projects were built according to plans'. In the next paragraph, poor safety measures was referred to, followed by a suggestion that 'local authorities should take initiative to complain to bodies like the board of engineers and architects if they believed that the consultants had been negligent.' It then elaborated that such professional governing bodies 'could penalise consultants, including deregistering them, for breach of ethics'. Then in the preceding paragraph the plaintiffs are directly referred to as follows:

In July, Lim (DW4) complained to both bodies against the architects and engineers of a private hospital project in Damansara Kim where the council had slapped a stop-work order on the car-park building as an extra floor was illegally built.

- F** From the above, the first thing that comes to light is that the subject matter is confined to a group of professionals: the engineers and architects. It focuses on their unprofessionalism by choice of words, such as in the heading: 'way to handle unprofessional architects and engineers.' Then 'ethics', and breach of it, 'safety measures' and 'negligence' followed. These are obviously elements associated with unprofessional conduct. Finally, there is a direct reference of an incident involving the plaintiffs. By the natural and ordinary meaning of the words used, I am of the opinion that an ordinary reasonable person, reading the alleged defamatory statements will have the impression that the plaintiffs who are involved in that specific incident are unprofessional and unethical in their conduct; that they are lackadaisical in their supervisory function as an architect, failed to give proper instructions, negligent and in breach of ethics. These statements are therefore, in my opinion defamatory.

### *Defences*

- I** I now move on to the defences put up by the defendants. They are: justification and fair comment.

*Justification*

A plea of justification means that all words were true and covers not only the bare statement of fact contained in the alleged libel but also any imputation which the words in their context may be taken to convey; it affirms all that attaches to them as their natural and reasonable meaning; the inference that would ordinarily be drawn from them: see *Gaitley on Libel and Slander* (8th Ed) at para 1111.

From the very initial stage, the plaintiffs have alleged in their statement of claim that the imputation of the defamatory statement is that the plaintiffs were unprofessional and incompetent in their work. Though the Defence pleads justification, and even with particulars to certain facts being true, but there is no disclosure as to what these facts alleged to be true imputes. When confronted with this, the defendants, in their submission, declared that the justification is in relation to the proper forum and manner in dealing with unprofessional architects was to lodge a complaint with the relevant regulatory body; not to blacklist them. I agree with the plaintiffs' counsel that this particular imputation on the facts alleged to be true is nowhere stated in the statement of defence; the plaintiffs are caught by surprise with such an assertion. In such a situation I agree with Lord Ackner's observation in *Lucas Box v News Group Newspapers Ltd; Lucas-Box v Associated Newspapers Group Plc & Ors* [1986] 1 All ER 177 (at p 183e-f):

However, we would go even further and say that, whatever may have been the practice to date, in future a defendant who is relying on a plea of justification must make it clear to the plaintiff what is the case he is seeking to set up. The particulars themselves may make this clear, but if they are ambiguous then the situation must be made unequivocal.

But to be unequivocal at this stage will not allow the plaintiffs a chance to present their case since it was the plaintiffs who first brought this out in their submissions when replying to the defendants.

Going by the rules of pleadings, where a party's case must be confined to the four walls of its pleadings, I have to find that the defendants alleged meaning imputed from the facts disclosed as true cannot be accepted; it is not pleaded. Except for the truth of the fact that a complaint lodged by DW4 to the Board of Architects being pleaded, there is no justification asserted that it imputes that the plaintiffs were unprofessional and incompetent in their work. For this, the plea of justification must fail.

*Fair comments*

In order to succeed in the defence of fair comments, the defendants must prove that:

- (1) the words alleged to be defamatory were comments and not statement of facts;
- (2) there was a basis for the comment;
- (3) the comment was of public interest; and
- (4) that it was made honestly and without malice.

**A** Commencing with the title of the article, right through other parts of the defamatory statements, I find that principally these were comments or opinions made by DW4. It was his views on the plaintiffs. And in order to decide whether these comments were fair, or have any basis, the facts on which they were based must be examined to determine whether they were true, or substantially true.

**B** To begin with, I find it proven that there was a stop-work order on the car-park building because of an extra illegal floor being constructed (see exh D6). It was also correct that DW4 had complained to the Board of Architects about the plaintiffs. Also true was the fact that the Board of Architects could penalise its members, including deregistering them, for breach of ethics. There was also a report last August before the publication of the first article that the Gombak district council was proposing to adopt a policy of refusing to deal with architects and engineers who were unprofessional in handling projects to ensure that the district was disaster free. With these facts being true, the next step is to consider whether the comments were fair, or whether there were any basis for them. The plaintiffs

**C** have argued that it was not. They forwarded the following reasons: Firstly, they were not the supervisory officer ('SO') of the project. There was a particular person appointed as SO in the building agreement between the proprietor and the contractor. Secondly, though the plaintiffs can advise their client, but ultimately the decision of whether to proceed with construction of the additional car-park floor without prior approval was with the proprietor. In this case, since the proprietor had elected to proceed before approval, the plaintiffs should not be blamed for it. Thirdly, since the new guidelines allowed additional parking bays, it was the industry's practice to build first while awaiting for approval. And according to precedents, only a fine will be imposed, or at most, demolition.

**E** I disagree with all the contentions of the plaintiffs. To start off with, though there was SO appointed for this project, it does not release the plaintiffs, as architects of the project, from liabilities and responsibilities over the same. The SO was appointed solely in the agreement between the proprietor and the contractor for the purpose of carrying out the construction according to the terms of the building contract. The plaintiffs' role continued to be that of a consultant architect of the project, and in this capacity, they were responsible for the overall project, which included the construction in accordance with approved building plans. When there was a need to amend the car-park building plans, the SO did not perform such task. It was the plaintiffs who had to apply as qualified and registered architects. Thus to the authorities and general public, it was the trust placed upon the plaintiffs by law that they were the responsible professionals to carry out the construction of the structure safety, and this was by way of in accordance with approved plans, which had been previously studied, examined and passed.

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**I** Though undoubtedly the ultimate decision of whether to proceed with, or without approved amended plans lies with the proprietor, but when the law is broken, the plaintiffs, as architects, to my mind, must report the matter to the authorities. Otherwise they may not only be an accessory to the commission of an offence but also liable to unprofessional conduct. If

everyone adopts the attitude that it is 'the client's decision' and not the architect's, and that it is the general practice of the industry to build first before approval, then, there is practically no necessity to obtain approval of plans for any building. And if the argument relates to only major changes needs approval first, then where is the line to be drawn between what is major and minor. Is the episode of Jaya Supermarket which built an additional four office floors without prior approval a minor deviation since only a fine was imposed? If this is the attitude of the industry to rely on the precedent of Jaya Supermarket experience, then it will be practically forcing the authorities to compromise, very similar to thumping the nose of the authorities. Surely, as citizens and professionals, the plaintiffs must ensure that the law must be followed, even at the risk of being discharged by the client; otherwise, the architectural profession will suffer irreparable damage if allowed to continue with such mentality.

The exposure of such non-compliance of building plans was certainly a matter of public interest. So was the role of the architects. Not only an honourable and respected profession serving the community was involved, but also the safety factor of structures constructed or to be constructed in this country. On this, DW4, as a member of the public had a legitimate right to comment, and I think in the light of the situation, his comments on the conduct and ethics of the plaintiffs were fair. I do not detect any dishonesty and malice on the part of DW4 and the respective defendants, nor were these ever proved.

On these grounds stated above, I find that the defence of fair comments must succeed.

*Is the alleged statement in the second article defamatory?*

The heading of this article bears the following:

Hospital Developer Yet to Demolish Illegal Floor.

Besides the two pictures with captions, one of which the plaintiffs claim to be defamatory with words: 'shabby safety measures ... note the netting and scaffolding which are dangling precariously', the article starts off with a report on the feelings of the residents in the area being baffled over the delay by the developers in demolishing the illegally constructed level of parking floor. Then it proceeds to talk about the residents' worries about the new scaffoldings being put up around the car-park site which may indicate that work thereon may be allowed to continue. Next is a statement by the committee member of Rukun Tetangga in the area complaining that the developer's scaffolding around the main building of the hospital had not been secured and the experience of a large plank falling from the above onto the road. In the next paragraph is a report on the failure of fogging around the worksite. This is then followed by the paragraph which refers directly to the plaintiffs which says that the Board of Architects will be deciding next month whether to charge the plaintiffs for alleged breach of their professional code of conduct. The plaintiffs claim that all these imputes them as being unprofessional, unethical and negligent.

A The defendant argued otherwise. They claim that, except for the paragraph which directly refers to the plaintiffs, the entire alleged defamatory statements relates to the developer; it does not impute the plaintiffs at all.

B I agree with this defendants' contention. I do not see how these alleged defamatory statements (except that directly concerning the plaintiffs) is in reference to the plaintiffs.

C To begin with, the heading itself speaks of the developer who had yet to demolish the illegal floor. Next comes the scaffolding. Again, it expressly refers it to that of the developer's. The caption beneath the picture of the scaffolding must be associated and read with the paragraph concerning the developer's scaffolding. There is no mention of the scaffolding belonging to the plaintiffs or that they were responsible for them in any part of this article. Then comes the falling plank. It is unimaginable that this can be associated with the plaintiffs when the prior paragraph talks of the developers' scaffolding, which of course, could have prevented such an incident. Reading this article as a whole, I do not believe that an ordinary reasonable man can impute the alleged defamatory statement to the plaintiffs. Though the incident of the plaintiffs with the Board of Architects is reported, but it is one of the incidence that befalls on this project. It is independent and does not connect the plaintiffs to those other occurrences reported in the earlier paragraphs. For this, I cannot accept that these statements are defamatory concerning the plaintiffs.

E

### *Findings*

Accordingly, I hereby dismiss the plaintiffs' claim with costs.

*Plaintiffs' claim dismissed with costs.*

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Reported by Jafisah Jaafar

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